

CORRECTIONS DEPARTMENT[201]

Adopted and Filed

Pursuant to the authority of Iowa Code section 904.108, the Iowa Department of Corrections hereby adopts amendments to Chapter 38, “Sex Offender Management and Treatment,” Iowa Administrative Code.

The purpose of these amendments is to ensure that the Department’s administrative rules are consistent with 2009 Iowa Acts, Senate File 340, which makes statutory changes to the Iowa sex offender registry process. 2009 Iowa Acts, Senate File 340, took effect on July 1, 2009. The amendments adopted herein implement the changes made by that legislation.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 2, 2009, as **ARC 8321B**. A public hearing was held on December 22, 2009, from 11 a.m. to 1 p.m. in the Second Floor Conference Room of the Department of Corrections. No one attended the public hearing, and no oral or written testimony was received. Two minor, nonsubstantive edits were made to these amendments. The risk assessment instrument designations in paragraphs 38.2(3)“a” and “b” have been corrected.

These amendments were approved during the January 8, 2010, meeting of the Board of Corrections. These amendments will become effective on March 3, 2010.

These amendments are intended to implement Iowa Code section 904.108 and 2009 Iowa Acts, Senate File 340.

The following amendments are adopted.

ITEM 1. Amend rule 201—38.1(692A,903B) as follows:

201—38.1(692A,903B) Application of rules. The following rules apply to sex offender ~~registration~~ electronic monitoring and hormonal intervention therapy.

ITEM 2. Rescind rule 201—38.2(692A,903B) and adopt the following new rule in lieu thereof:

201—38.2(692A,903B) Electronic monitoring. It is the intent of the Iowa department of corrections that the electronic monitoring system (EMS) shall be used to enhance public safety. Appropriate levels of EMS should be used to verify the location and restrict the movement of sex offenders based upon a validated risk assessment, the sex offender’s criminal history, progress in treatment and supervision, and other relevant factors. EMS is additionally governed by the provisions of department of corrections policy OP-SOP-06.

38.2(1) Definitions.

“*Electronic monitoring system*” or “*EMS*” is a term used collectively for technology that determines the location of offenders who have restricted movement while being supervised in their respective community. EMS may also incorporate the ability to conduct random substance abuse testing.

“*Offender*” means a person who is required to register with the Iowa sex offender registry.

38.2(2) Selection of offenders for EMS. All offenders on supervision for a current sex offense who are required to be registered as a sex offender under Iowa Code chapter 692A shall be placed on EMS immediately after assignment to supervision. This level may be changed based on risk assessment.

38.2(3) Risk assessment instrument. All required risk assessments shall be conducted utilizing the risk assessment instruments outlined below as approved by the department of corrections. The risk assessment should be completed within 30 days prior to the offender’s release from custody or upon the offender’s placement on probation, parole, or work release.

a. Static 99—revised. Designed for adult male sex offenders aged 18 and over and juvenile male offenders waived to adult court who have a specific identified victim.

b. ISORA. Designed for adult male and female sex offenders aged 18 and over who may or may not have a specific identified victim.

c. *Stable 2007*. Designed to assess dynamic risk factors for sex offense recidivism for the purpose of treatment, supervision, and monitoring of sex offenders primarily on community correctional supervision.

d. *Level of service inventory—revised*. A quantitative risk assessment instrument to determine the offender’s criminogenic risk, programming needs and the required level of service.

38.2(4) Notification of victims. A judicial district department of correctional services shall notify a registered victim regarding a sex offender convicted of a sex offense against a minor who is under the supervision of a judicial district department of correctional services of the following:

a. The beginning date for use of an electronic tracking and monitoring system to supervise the sex offender and the type of electronic tracking and monitoring system used.

b. The date of any modification to the use of an electronic tracking and monitoring system and the nature of the change.

NOTE: Notification includes the initial notification to victims of the date that an offender has been placed on an electronic monitoring device, notification as to the date an electronic monitoring device was changed with greater or less monitoring capabilities (GPS to radio frequency or radio frequency to GPS), and notification as to the date the offender was removed from an EMS.

38.2(5) Additional rules. The department of public safety’s rules regarding the Iowa sex offender registry are published in 661—Chapter 83.

ITEM 3. Rescind and reserve rule **201—38.3(692A)**.

ITEM 4. Amend **201—Chapter 38**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 692A as amended by 2009 Iowa Acts, Senate File 340, and Iowa Code chapter 903B.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/27/10.